

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

HOME OFFICE BALTIMORE, MD 21203

Bond Number CGB 8820502

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CINDER BLOCK, INC.
A California corporation,

Plaintiff,

vs.

Undertaking for
Temporary Restraining Order,
Order of Seizure and Preliminary
Injunction

JOHN DOES 1 – 100, individuals,
JANE DOES 1-100, individuals,
and XYZ COMPANY, business
entity form unknown, inclusive,

Civil Action No. 05 11641 1 RWZ

Defendants .

WHEREAS, by an Order of the above entitled Court, Plaintiff is required to file an undertaking in the sum of **FIVE THOUSAND AND 00/100THS**———(**\$5,000.00**)**DOLLARS**, pursuant to a Temporary Restraining Order, Order of Seizure and Preliminary Injunction restraining and enjoining Defendants, from the commission of certain acts as more fully set forth in said Order.

NOW, THEREFORE, the **FIDELITY & DEPOSIT COMPANY OF MARYLAND** a corporation organized and existing under the laws of Maryland and authorized to transact the business of Surety, in the State of New York at 105 East 17th Street, New York, NY 10003, as Surety, in consideration of the premises and the issuance of said Temporary Restraining Order, Order of Seizure and Preliminary Injunction does hereby undertake to pay all costs and disbursements that may be decreed to said Defendants and such damages not exceeding the amount of **FIVE THOUSAND AND 00/100THS** ——(**\$5,000.00**)**DOLLARS**, as Defendants may sustain by reason of said Order the same be wrongful and without sufficient cause.

IN WITNESS WHEREOF, we have set our hand and seal on the 16th day of August, 2005.

FIDELITY & DEPOSIT COMPANY OF MARYLAND

Maria Sponza,

Attorney-In-Fact

Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY

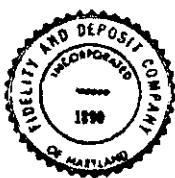
KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, and the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, corporations of the State of Maryland, by THEODORE G. MARTINEZ, Vice President, and ERIC D. BARNES, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Sybil LEVINE, Maria SPONZA, Anita HUNTER, Margaret MCLAUGHLIN and Carol LEVINE, all of New York, New York, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: ~~any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons.~~ This power of attorney revokes that issued on behalf of Maria SPONZA, Anita HUNTER, Carol LEVINE, Sybil LEVINE, Margaret MCLAUGHLIN, dated August 5, 2004.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seals of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, and the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, this 26th day of August, A.D. 2004.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY



Eric D. Barnes

Eric D. Barnes Assistant Secretary

Theodore G. Martinez

By:

Theodore G. Martinez

Vice President

State of Maryland } ss:
City of Baltimore }

On this 26th day of August, A.D. 2004, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came THEODORE G. MARTINEZ, Vice President, and ERIC D. BARNES, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, and the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Companies aforesaid, and that the seals affixed to the preceding instrument is the Corporate Seals of said Companies, and that the said Corporate Seals and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Dennis R. Hayden

Dennis R. Hayden

Notary Public

My Commission Expires: February 1, 2009

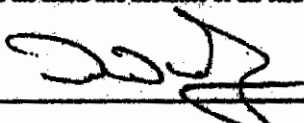
**FIDELITY AND DEPOSIT COMPANY**OF MARYLAND
3910 KESWICK ROAD, BALTIMORE, MD 21203**Statement of Financial Condition
As Of December 31, 2004**

ASSETS	
Bonds	\$ 139,004,313
Stocks	38,155,527
Cash in Banks and Offices and Short Term Investments	113,921
Reinsurance Receivable	21,243,764
Other Accounts Receivable	17,975,790
TOTAL ADMITTED ASSETS	\$ 216,503,313
LIABILITIES, SURPLUS AND OTHER FUNDS	
Reserve for Taxes and Expenses	\$ 235,362
Ceded Reinsurance Premiums Payable	37,528,151
TOTAL LIABILITIES	\$ 57,763,513
Capital Stock, Paid Up	\$ 5,000,000
Surplus	173,739,802
Surplus as regards Policyholders	178,739,802
TOTAL	\$ 216,503,313

Securities carried at \$20,490,045 in the above statement are deposited as required by law.

Securities carried on the basis prescribed by the National Association of Insurance Commissioners. On the basis of December 31, 2004 market quotations for all bonds and stocks owned, the Company's total admitted assets would be \$218,087,578 and surplus as regards policyholders \$180,324,065.

I, DAVID A. BOWERS, Corporate Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing statement is a correct exhibit of the assets and liabilities of the said Company on the 31st day of December, 2004.


Corporate Secretary

State of Illinois }
City of Schaumburg } SS:

Subscribed and sworn to, before me, a Notary Public of the State of Illinois, in the City of Schaumburg, this 5th day of April, 2005.


Notary Public

